

# The Treasury

## Reform of the Overseas Investment Act Information Release

July 2020

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### Information Withheld

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act).

Where this is the case, the relevant sections of the Act that would apply have been identified.

Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to sections of the Act under which information has been withheld:

- [1] 6(a) - to avoid prejudice to the security or defence of New Zealand or the international relations of the government
- [2] 6(b)(i) - to avoid prejudice the entrusting of information to the Government of New Zealand on a basis of confidence by the Government of any other country or any agency of such a Government
- [4] 6(c) - to avoid prejudice to the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial
- [23] 9(2)(a) - to protect the privacy of natural persons, including deceased people
- [29] 9(2)(d) - to avoid prejudice to the substantial economic interests of New Zealand
- [31] 9(2)(f)(ii) - to maintain the current constitutional conventions protecting collective and individual ministerial responsibility
- [33] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [34] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
- [36] 9(2)(h) - to maintain legal professional privilege
- [37] 9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice
- [39] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage

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**Treasury Report:** Regulations to be made to support the Overseas Investment Act Phase two reforms: public disclosure document

<b>Date:</b>	4 March 2020	<b>Report No:</b>	T2020/502
		<b>File Number:</b>	IM-5-3-8 (Overseas Investment Act Phase Two)

**Action sought**

	<b>Action sought</b>	<b>Deadline</b>
Minister of Finance (Hon Grant Robertson)	<b>Note</b> the contents of this report	9 March 2020
Associate Minister of Finance (Hon David Parker)	<b>Agree</b> to the recommendations contained in this report	

**Contact for telephone discussion (if required)**

<b>Name</b>	<b>Position</b>	<b>Telephone</b>	<b>1st Contact</b>
John Beaglehole	Principal Advisor, International	[39]	[23] ✓
Christopher Nees	Principal Advisor, International	[39]	[23]

**Minister's Office actions (if required)**

**Return** the signed report to Treasury.  
**Copy** this report to the Minister for Land Information

Note any feedback on the quality of the report

**Enclosure:** Yes (attached)

# **Treasury Report: Regulations to be made to support the Overseas Investment Act Phase two reforms: public disclosure document**

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## **Purpose**

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We seek your feedback on the attached document setting out the summary of approach to supporting regulations for the phase two amendments to the Overseas Investment Act 2005 (as noted in T2020/228). While those amendments are largely done through primary legislation, there are some areas where regulations will contain important matters of detail. You have already made decisions in a number of these areas, for instance, about the precise nature of assets to be subject to the call-in power.

## **Analysis**

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The enclosed document sets out a summary of those regulations, and only covers decisions you have already made. It is not an exposure draft of the regulations, but it does aim to give submitters on the Bill, and members of Parliament, an opportunity to see the entire scope of the reforms, not only those contained in the Bill itself. We expect that having this information in the public domain will lead to a better select committee process, and increase public understanding of the reforms.

## **Outstanding issue**

The document notes that the threshold for an irrigation scheme that will be covered by the national interest regime is one with a resource consent or consents to abstract between 25 million and 75 million cubic metres of water per year (see p 9). We have added this range as we understand ministers are still considering the most appropriate level at which the Act's national interest provisions should engage. Once you have reached a decision as to that level, we will amend the document to suit.

## **Next steps**

We note also that you have previously agreed to attach this summary document to the report to the LEG committee seeking introduction of the Bill. We will work with your office to provide a final version of the summary for that purpose.

Separately, we propose to release an explanatory document about the phase two reforms on The Treasury's website at the time the Bill is introduced to the House. That explanatory document would be closely modelled on the initial briefing to the select committee, noting that select committee will not release the initial briefing until it reports back to the House. Again, the purpose of the explanatory document would be to improve public understanding of the reforms.

## Recommended Action

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We recommend that you:

- a **provide** feedback on the attached summary of the regulations to be made as part of the 'phase two' reforms of the Overseas Investment Act 2005;

*Agree/disagree.*

- b **agree** to attach the final version of the summary to the LEG paper seeking Cabinet approval of the Overseas Investment Act Amendment Bill 2020 (Bill);

*Agree/disagree.*

- c **refer** this report and the attachment to the Minister of Land Information

*Refer/not referred.*

- d **note** that officials propose to release an explanatory document about the phase two reforms, which may incorporate this material, on The Treasury's website at the time the Bill is introduced to the House.

Chris Nees  
**Principal Advisor, International**

Hon David Parker  
**Associate Minister of Finance**